

**Meeting of The Reclamation Board  
February 16, 2007**

**Reclamation Board Staff Report**

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**Item**

Application No. 17659-A

**Applicant**

River Partners

**Description**

The applicant is requesting a Reclamation Board encroachment permit to plant mixed riparian forest, elderberry, woodland, valley oak savanna, and grassland on a 136-acre parcel within the Butte Basin.

**Location**

The project is located north of Butte City, south of Llano Seco Rancho, approximately one mile east of Sacramento River Mile 175, in the Butte Basin. The Butte Basin is part of the Board's Adopted Plan of Flood Control and bounded by the east levee of the Sacramento River on the west. Levee District Three is the local maintaining agency for the Sacramento River east levee.

**Background**

This is a continuation of Board's consideration of this application which was first heard at the Board's October 20, 2006 meeting in Sacramento, California. In that meeting, the Board deferred its decision until the following issues are addressed:

1. Impacts of elderberry planting on LD 3 levee maintenance activities and adjacent properties,
2. Long-Term Maintenance and Financial Plan, and
3. Hydraulic Impact
4. Loss of Tax Revenue

Staff met with Levee District Three and River Partners staff on separate occasions to discuss the above issues. As a result of those meetings, the applicant has submitted a letter from the U. S. Fish and Wildlife Service clarifying the Safe Harbor Agreement; a letter from the Department of Fish and Game expressing its support of the project and willingness and ability to provide long-term management of the restored site if it is transferred to the agency; and an updated hydraulic analysis. The U. S. Army Corps of Engineers also sent their comment letter on the application. Staff has reviewed the new information.

**U. S. Fish and Wildlife Service Letter.** The USFWS letter dated February 6, 2007 clarified the incidental take authorization under the Safe Harbor Agreement between the Service and River Partners. The Service clarified that any flood control management activities including routine maintenance on the levees or along levee easements on the enrolled property are covered under the “take” authorization. This means that LD3 or any maintaining agency can carry out work related to flood control management activities without the regulatory restrictions. The “take” authorization includes removal of elderberry plants if necessary, provided that the removal does not exceed pre-agreement condition, which for this project is one elderberry plant. It is also important to note that young elderberry plant with stem diameters less than 1 inch is not protected under the ESA and can therefore be removed without incurring regulatory liability. The SHA agreement is for 25 years and can be renewed if desired by the applicant.

**California Department of Fish and Game Letter.** DFG sent a letter dated February 9, 2007 expressing its support of the project and its willingness to maintain the project area in accordance with permit conditions if the project is transferred to the Department. The Department’s ability to provide long-term maintenance is demonstrated by its successful management of the Upper Butte Basin Wildlife Area and other projects permitted by the

Reclamation Board. The Department has a budget and staff and equipment resources available to carry out maintenance.

**U. S. Army Corps of Engineer Comment Letter.** The Corps in a letter dated October 11, 2006 expressed no strong objection to the proposed restoration project. They have recommended three conditions to ensure protection of the flood control system and all conditions are incorporated in the permit.

**Updated 2-D Hydraulic Model.** The Butte Basin serves as a detention/storage area for overflow during floods on the Sacramento River and provides bypass conveyance of overflow to the Sutter Bypass. The Basin is approximately 35 miles long and 2 to 12 miles in width.

Ayers and Associates developed a 2-dimensional model of the Butte Basin/Sacramento River flood area in 1997 for the Reclamation Board and the U. S. Army Corps of Engineers. The model includes the area from River Mile 173 to RM 194 which includes the proposed project area. The 2-D hydraulic model was updated in 2006. The model estimates the design flow velocity at the proposed project site at 0.5 feet per second, which translates into a potential rise of water surface elevation of approximately .05 inch, if the flow is restricted. The basin will be able to contain the flood waters resulting from this minuscule potential rise in water surface elevation and the proposed project would not result in the redirection of flood waters back to the main Sacramento River.

Concerns were raised regarding cumulative impacts of similar riparian restoration projects in the area. Cumulative hydraulic impacts will not likely occur in the areas with flow velocities less than 1 foot per second, unless the projects are strung together. Since velocities of this low magnitude are not prevalent throughout the Butte Basin, it is very unlikely that an accumulative analysis of projects with similar hydraulic conditions has any potential for implementation. Projects located in higher velocity areas would have a greater potential for increasing water surface elevations and changing the hydraulics of the basin. Therefore, proponents of these types of projects should be required to conduct hydraulic studies to quantify the potential hydraulic impacts (including a cumulative impact analysis) to provide assurance that the project design flows are not impacted. Projects

located in high velocity areas would likely result in higher rise in water surface elevation and proponents should be required to conduct hydraulic analysis to quantify hydraulic impacts.

### **Additional Conditions to Ensure Protection of the Butte Basin Flood Control**

**Function.** Staff is recommending four additional conditions in the permit to ensure that restoration site does not interfere with the flood control function of the Butte Basin. One condition requires River Partners to enter into an agreement with the Reclamation Board to provide assurances that the project area is maintained by River Partners to a level that maintains the flood carrying capacity of the area. A second condition requires River Partners to restore the project area to its baseline condition prior to the transfer of the property unless the individual or organization acquiring the property enters into an agreement with the Board that provides assurances consistent with the agreement in the first condition. A third condition requires restoring the project area to its baseline condition at least one year before the expiration of the Safe Harbor Agreement unless the SHA is extended, or the Service has issued a Biological Opinion authorizing the performance of all necessary flood activities without incurring any liability for take, or the VELB is de-listed. The fourth condition requires River Partners to pay Levee District Three the equivalent of present dollar value of tax revenues lost in the event that the property is taken out of the tax rolls, such as when the project is transferred to the federal or State government.

### **Staff Recommendation**

Based on the facts presented above, staff recommends approval of River Partners draft permit.

### **Exhibits**

- Exhibit 1 – Draft Encroachment Permit
- Exhibit 2 – Project Site Map
- Exhibit 3 - U. S. Fish and Wildlife Service Letter
- Exhibit 4 – U. S. Army Corps of Engineers Letter
- Exhibit 5 – California Department of Fish and Game Letter

Exhibit 6 – Report – The Impact on Glenn County Property Tax Revenues of Public Land  
Acquisitions in the Sacramento River Conservation Area  
Exhibit 7 – Hydraulic Model Velocity Profile  
Exhibit 8 – Project Notice of Exemption for CEQA Compliance

**DRAFT**

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
**THE RECLAMATION BOARD**

PERMIT NO. 17659-A BD

This Permit is issued to:

River Partners  
580 Vallombrosa Avenue  
Chico, California 95926

To plant mixed riparian forest, elderberry and woodland, valley oak savanna and grassland on 136 acres within the Butte Basin. The project is located north of Butte City, south of Llano Seco Rancho approximately 1 mile east of Sacramento River Mile 175 (Section 4, T19N, R1W, MDB&M, Levee District 3, Butte Basin, Glenn County).

NOTE: Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project described above.

(SEAL)

Dated: \_\_\_\_\_

\_\_\_\_\_  
General Manager

**GENERAL CONDITIONS:**

**ONE:** This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

**TWO:** Only work described in the subject application is authorized hereby.

**THREE:** This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

**FOUR:** The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Reclamation Board.

**FIVE:** Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Reclamation Board.

**SIX:** This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 days' notice.

**SEVEN:** It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

**EIGHT:** This permit does not establish any precedent with respect to any other application received by The Reclamation Board.

**NINE:** The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

**TEN:** The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

**ELEVEN:** The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

**TWELVE:** Should any of the work not conform to the conditions of this permit, the permittee, upon order of The Reclamation Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

#### **SPECIAL CONDITIONS FOR PERMIT NO. 17659-A BD**

**THIRTEEN:** Prior to construction, the permittee shall secure from the owner of the property a permanent easement granting the Sacramento and San Joaquin Drainage District, acting by and through The Reclamation Board of the State of California, a permanent easement granting all flood control rights upon, over and across the existing flood control project features and the proposed project. The easement must include the area within the floodway and the levee section if the area is not presently encumbered by a Reclamation Board easement. For information regarding existing Reclamation Board easements and required easements, please contact Jeffery Fong at (916) 657-2831.

**FOURTEEN:** All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of The Reclamation Board.

**FIFTEEN:** The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of the Department of Water Resources, Levee District Three or any other agency responsible for maintenance.

**SIXTEEN:** The permittee shall contact the Department of Water Resources by telephone, (916) 574-1213, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

**SEVENTEEN:** The Reclamation Board, Department of Water Resources, and Levee District Three shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair.

EIGHTEEN: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee does not comply, The Reclamation Board may remove the encroachment(s) at the permittee's expense.

NINETEEN: The permittee should contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Branch, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250, as compliance with Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act may be required.

TWENTY: The permittee shall be responsible for repair of any damages to the project levee and other flood control facilities due to construction, operation, or maintenance of the proposed project.

TWENTY-ONE: The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend and hold harmless the State of California, or any departments thereof, from any liability or claims of liability associated therewith.

TWENTY-TWO: If the project, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the project under direction of The Reclamation Board and Department of Water Resources, at the permittee's or successor's cost and expense.

TWENTY-THREE: No construction work of any kind shall be done during the flood season from November 1 to April 15 without prior approval of The Reclamation Board.

TWENTY-FOUR: All cleared trees and brush shall be completely burned or removed from the floodway, and downed trees or brush shall not remain in the floodway during the flood season from November 1 to April 15.

TWENTY-FIVE: Tree rows shall not be planted within 15 feet of a protected streambank or within 30 feet of an unprotected streambank.

TWENTY-SIX: Any vegetative material, living or dead, that interferes with the successful execution, functioning, maintenance, or operation of the adopted plan of flood control must be removed by the permittee at permittee's expense upon request by The Reclamation Board, Department of Water Resources, or local maintaining agency. If the permittee does not remove such vegetation or trees upon request, The Reclamation Board reserves the right to remove such at the permittee's expense.

TWENTY-SEVEN: Tree rows shall be parallel to the direction of the overbank flow and planted vegetation shall not cause the flows to be directed toward any levee or other flood control facilities.

TWENTY-EIGHT: The spacing between rows shall not be less than 20 feet and the minimum spacing of trees within a row can vary from 5 feet to 10 feet. The row spacing may be increased in the field if, in the judgment of The Reclamation Board, additional space is necessary for the passage of floodflows.

TWENTY-NINE: The Reclamation Board may require clearing and/or pruning of trees planted within



the floodway in order to minimize obstruction to floodflows.

THIRTY: Areas where plantings are lost to erosion shall not be replanted.

THIRTY-ONE: No further tree planting or work, other than that covered by this application, shall be performed in the area without prior approval of The Reclamation Board.

THIRTY-TWO: If the proposed project results in an adverse hydraulic impact, the permittee will provide appropriate mitigation to be approved by The Reclamation Board prior to implementation.

THIRTY-THREE: This permit is for the benefit and use of the permittee alone, and is not transferable to subsequent owners of the property except as provided in this permit.

THIRTY-FOUR: The permittee shall enter into an agreement with the Board to provide assurances to the Board that vegetation in the project area, apart from vegetation that constitutes the baseline condition of the area, will not materially interfere with the conveyance of flood waters necessary for successful operation of the adopted plan of flood control, and that the permittee shall agree to take responsibility to maintain levels of vegetation in the area for that purpose and provide the Board with satisfactory assurances that it is able to do so.

THIRTY-FIVE: The permittee agrees to restore the project area to its baseline condition prior to transferring title to the property, unless the permittee has received written authorization from the Board to transfer the property without such restoration based on compliance with terms and conditions described in this permit.

THIRTY-SIX: The Board shall waive the permittees' obligation to restore the project area to its baseline condition prior to transfer of the property as required by Special Condition THIRTY-FIVE, provided that the individual or organization acquiring the property enters into an agreement with the Board that provides assurances consistent with those contained in Special Condition THIRTY-FOUR.

THIRTY-SEVEN: The permittee shall restore the project area to its baseline condition at least one year prior to expiration of the Safe Harbors Agreement, as described in the "River Partners Safe Harbors Agreement for the Valley Elderberry Longhorn Beetle" between River Partners and the U. S. Fish and Wildlife Service, which is attached to this permit as Exhibit A and is incorporated by reference.

THIRTY-EIGHT: The permittee shall not be required to restore the project area as requires by Special Condition THIRTY-SEVEN provided that the permittee, at any time before one year prior to expiration of the Safe Harbors Agreement, demonstrates to the satisfaction of the Board that the Safe Harbors Agreement has been extended, or that the Fish and Wildlife Service has issued a Boilological Opinion authorizing the performance of all necessary flood activities without incurring any liability for "take" or any requirement to mitigate for impacts to the Valley Elderberry Longhorn Beetle, or upon substantial change in the legal status of the Valley Elderberry longhorn Beetle that would, in the opinion of the Board, render such restoration unnecessary.

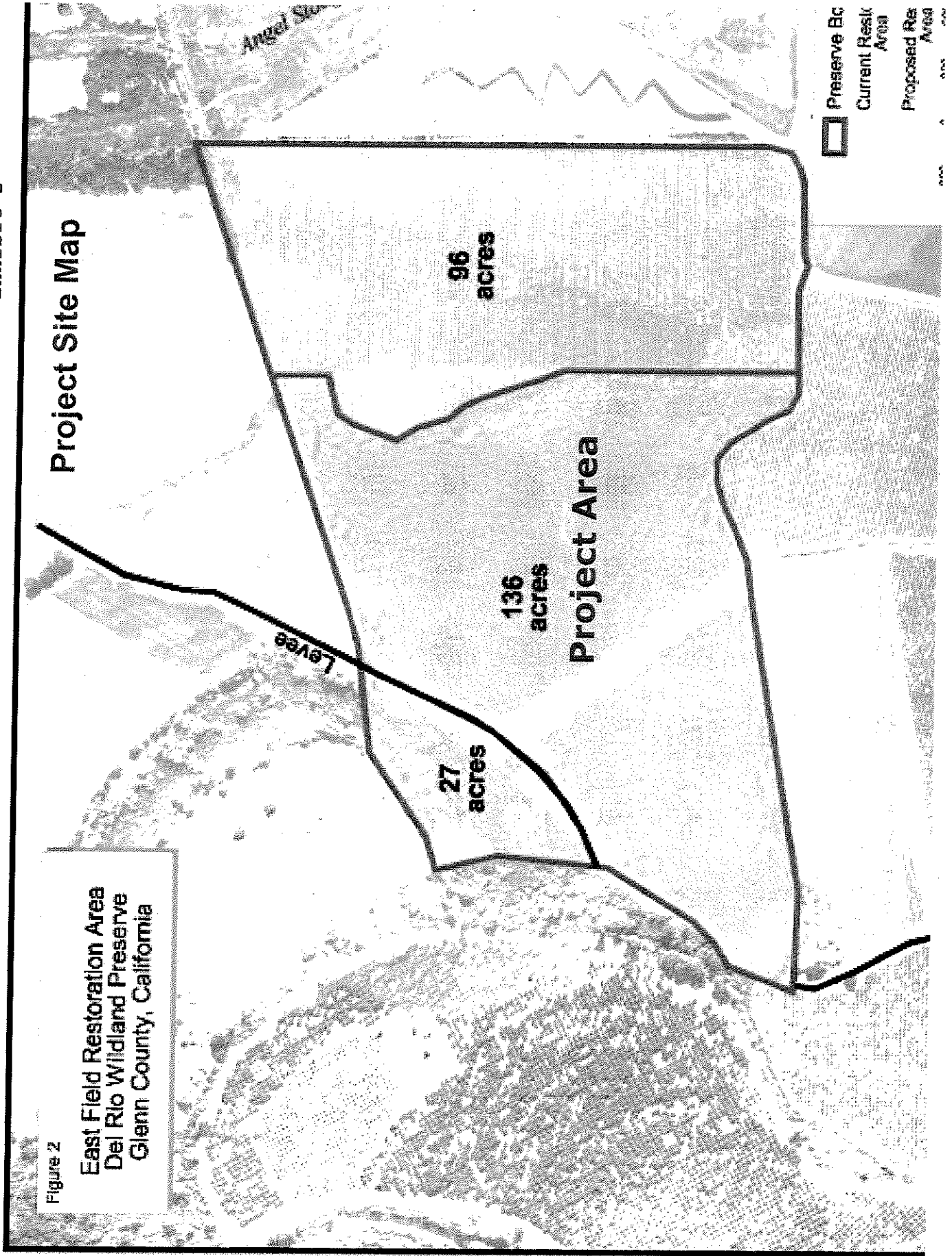
THIRTY-NINE: At such time the permittee ceases paying property taxes on property controlled by the permittee subject to this permit or such property is transferred to a third party from whom county property taxes will not be collected, permittee shall deposit in an account specified by Levee District

3, and payable to Levee District 3, funds in an amount equivalent to the present dollar value of tax revenues to Levee District 3 lost as a result, as approved by the Board. Both permittee and Levee District 3 may submit information relevant to determining the amount due pursuant to this Special Condition.

FORTY: Responsibility for determining compliance with Special Conditions of this permit shall be delegated to Board staff.

FORTY-ONE: The permittee shall comply with all conditions set forth in the letter from the Department of the Army dated October 11, 2006, which is attached to this permit as Exhibit B and is incorporated by reference.

FORTY-TWO: The permittee shall be responsible to ensure that the project can be properly maintained in accordance with this permit and in accordance with The Reclamation Board's responsibility to maintain the Sacramento River Flood Control Project.





# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
 Sacramento Fish and Wildlife Office  
 2800 Cottage Way W-2605  
 Sacramento, California 95825



Scott R. Morgan  
 Staff Counsel  
 Reclamation Board  
 P.O. Box 942836  
 Sacramento, California 94236

FEB - 6 2007

Dear Mr. Morgan;

In June 2006, the U.S. Fish and Wildlife Service (Service) entered into a Safe Harbor Agreement (Agreement) with River Partners for the restoration, enhancement, and management of 259 acres that is located in the flood-prone land between the Sacramento River Flood Control Project (SRFCP) setback levee and Angel Slough (Enrolled Property). This Agreement and corresponding permit, issues pursuant to the Endangered Species Act, to authorize the incidental take of the valley elderberry longhorn beetle associated with the restoration, enhancement, and management of riparian habitat on the property owned by the Applicant, other lawful uses of the property, and the potential future return of any eligible land to pre-Agreement conditions (baseline condition) after this Agreement expires.

In discussions with Dan Efseaff of River Partners, it is our understanding that the Reclamation Board has some concerns regarding take of valley elderberry beetle host plants along the levee. In this letter, we hope to address and alleviate those concerns and in turn encourage the Reclamation Board to grant the encroachment permit to River Partners to allow the planting of elderberry plants in the project area to proceed.

The Safe Harbor Agreement was developed to offer regulatory incentives to landowners that want to implement restoration and enhancement measures on their property that will provide a net benefit to threatened and endangered species. As a part of the River Partners Safe Harbor Agreement, the Service issued a permit that grants incidental take of the valley elderberry longhorn beetle for "other lawful uses" on the property provided that baseline conditions are maintained. In other words, "take" is authorized in the permit but cannot occur below what was already on the property at the start of the Agreement. For the River Partners Safe Harbor Agreement, baseline conditions consisted of one elderberry plant with 9 stems measuring greater than one (1) inch diameter.

In this Agreement, we specifically addressed activities that would need to be conducted for flood control management by the Department of Water Resources. Section 10 of the Safe Harbor Agreement entitled "Assurances to the Applicant regarding take of covered species" the Service authorized take of the Covered Species incidental to otherwise lawful activities to include the following circumstance:

"Flood control management activities conducted or authorized by the Department of Water Resources, including management of levees, weirs, bypasses, and/or other flood relief structures, drains and gates."

In response to your email conversation with Dan Efseaff of River Partners, work performed by Levee District 3 or any other maintaining agency on levees or along levee easements would be covered for "take" under the federal Endangered Species Act for harm to the valley elderberry beetle beyond the single baseline host plant located on your property under the River Partners Safe Harbor Agreement.


This take authorization applies to any valley elderberry beetle host plant in the Enrolled Property, not only those that have been planted as part of the program. So to clarify your concern, as the planted elderberry plants spread, the take authorization would apply to all new plants. The duration of the take permit is 25 years; however, the permit can be renewed if desired by the Applicant.

The Service understands the concerns of the Reclamation Board regarding routine levee maintenance activities and the potential regulatory problems associated with the presence of elderberry plants within the enrolled property which includes the project levee. However, the Safe Harbor Agreement was developed to address these concerns. The spirit and intent of this Safe Harbor Agreement is to encourage restoration of habitat for the benefit of threatened and endangered species without creating additional regulatory burdens for the parties involved. To reach that goal, we ensured that the Safe Harbor Agreement authorizes take associated with flood control activities which includes levee maintenance.

The Service has worked closely with River Partners in the development of this Safe Harbor Agreement for the restoration of riparian habitat for the benefit of the valley elderberry longhorn beetle. We hope that this letter has addressed those concerns raised by the Reclamation Board and that those concerns have been alleviated so that River Partners may proceed with the project.

If you have any questions or need further clarification, please contact Ms. Shannon Holbrook, Safe Harbor Coordinator, Sacramento Fish and Wildlife Office at (916) 414-6600.

Sincerely,

A handwritten signature in black ink, appearing to read "for @ Susan K. Moore". The signature is stylized and cursive.

Susan K. Moore  
Field Supervisor

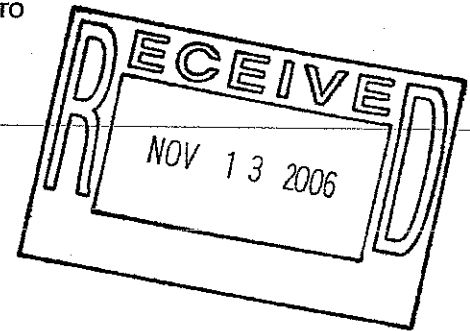
cc:

River Partners, Chico, California (Attn: Dan Efseaff):



DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO  
CORPS OF ENGINEERS  
1325 J STREET  
SACRAMENTO, CALIFORNIA 95814-2922  
October 11, 2006

REPLY TO  
ATTENTION OF



Navigation and Flood Control Unit (17659-Rev.)

Mr. Jay Punia, General Manager  
The Reclamation Board  
State of California  
3310 El Camino Ave., Rm. LL40  
Sacramento, California 95821

Dear Mr. Punia:

We have reviewed an application for a permit by River Partners (Reclamation Board Number 17659-Rev). These plans include planting mixed riparian forest, elderberry and woodland, valley oak savanna and grassland on 136 acres within the Butte Basin. The project is located north of Butte City, south of Llano Seco Rancho approximately 1 mile east of Sacramento River Mile 175 in the Butte Basin, in Section 4, Township 19 North, Range 1 West, M.D.B. & M. Survey, Glenn County, California.

The District Engineer has no objection to approval of this application by your Board from a flood control standpoint subject to the following conditions:

- a. That in the event trees and brush are cleared, they shall be properly disposed of outside the limits of the project works.
- b. That the trees must not interfere with the integrity of the adopted plan of flood control, easement access, or interfere with maintenance, inspection, and flood fight procedures. Proper maintenance by the applicant is necessary to ensure no buildup of debris or underbrush.
- c. That the proposed work shall not change the streamflow velocity in such a way that might cause damage to the existing waterside levee or berm nor reduce the channel flow capacity. The Sacramento District will not compromise public safety and authorized levels of flood protection for planting or preserving vegetation.

Based upon the information provided, no Section 10 or Section 404 permit is needed.

If you have any questions concerning our comments on this permit application, please contact Mr. Mohsen Tavana at (916) 557-5282 or Mr. Robert Murakami at (916) 557-6738.

Sincerely,

*Michael D. Mahoney*  
Michael D. Mahoney, P.E.  
Chief, Construction-Operations Division

CF:

Mr. Tirath Pal Sandhu, Chief, Flood Project Integrity and Inspection Branch, 3310 El Camino Ave., Suite LL30, Sacramento, CA 95821



State of California - The Resources Agency

DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

ARNOLD SCHWARZENEGGER, Governor



Upper Butte Basin Wildlife Area  
9256 hwy 162, PO Box 190  
Butte City, Ca. 95920

California Department of Fish & Game  
Upper Butte Basin Wildlife Area  
9256 Highway 162/ PO Box 190  
Butte City, California 95920

Mr. Scott R. Morgan, Staff Counsel  
Department of Water Resources  
P.O. Box 942836  
Sacramento, Ca. 94236

February 9, 2007

Dear Mr. Morgan:

We have been requested by River Farmers to supply additional information and clarification in support of their project and permit application (Reclamation Board Permit Number 17659-A). I understand that the Reclamation Board has concerns about the long-term management of the property once transferred to DFG. This letter intends to address those concerns.

I manage the Upper Butte Basin Wildlife Area. We manage approximately 9,500 acres in the area with a staff of 12 and an annual operating budget of \$1,199,640. Much of this land is in the floodways of the Sacramento River or Butte Creek. Our staff installs and maintains water control structures and water delivery and drainage systems, conducts vegetation control, plants vegetation, maintains roads, and administers public recreation.

The Department of Fish and Game in the Sacramento Valley has successfully received and has abided by the conditions set forth in a number of encroachment permits from the Reclamation Board. For example, DFG has secured permits for Beehive Bend (Permit #170110, Thomas Unit (#17010), Jacinto Unit (#17298), Pine Creek (#17476), Howard Slough (#17314), Moulton Weir (#17384) and O'Connor Lakes (#17936).

We pride ourselves in providing high quality wildlife habitat and providing the public with a unique opportunity in the Sacramento Valley. We work well with our neighbors and local agencies, and we have the staff and budget to handle maintenance issues. If DFG accepts the property, the department will abide by the terms and conditions of the encroachment permit. Please let me know if you have any additional questions.

Sincerely

A handwritten signature in black ink that reads "Donald Blake".

Donald Blake  
Wildlife Habitat Supervisor II

**The Impact on Glenn County Property Tax Revenues  
of Public Land Acquisitions in the  
Sacramento River Conservation Area**

**U.S. Fish and Wildlife Service Contract Number 11332-8-G100**

**By**

**Ronald G. Adams**

**David E. Gallo**

**with assistance from**

**Justin C. Hurst**

**Chico Research Foundation**

**Office of Sponsored Programs**

**California State University, Chico**

**June, 1999**



## **Executive Summary**

### **Introduction and Scope**

The purpose of this study is to examine the impacts on local property tax revenues of Federal and State land acquisitions along the Sacramento River. Land is being purchased from private owners for various purposes including habitat preservation and restoration. The study is limited to land acquisitions within Glenn County, California, however, the results should be applicable to other counties along the Sacramento River.

### **Methodology**

The target area for the study is land adjacent to the Sacramento River in Glenn County. Land acquisitions included in the study are those properties subject to potential flooding from the River. The values for acquired properties were determined prior to sale to the respective Federal or State agency. The prices paid by the State and Federal governments were determined from two separate sources. For State property acquisitions, the purchase price was provided by the Glenn County Assessor's Office from a list of all property purchases by the Wildlife Conservation Board. For properties purchased by the Federal government, the prices paid were found on the sale documents from the County Recorder's Office.

The purpose of the study is to compare Federal and State in lieu payments to the property taxes that would have been paid had the acquired lands remained in private ownership. In the case of the State, in lieu payments are calculated as the product of the assessed value prior to the sale of the property and the applicable tax rate for the particular tax rate area. The Federal government computes in lieu taxes owed to counties at three-quarters of a percent of the appraised value. Unlike the State, the Federal government sets the initial appraised value equal to the purchase price and re-appraises its holdings every five years. For a privately held parcel, property taxes paid are the product of the assessed value and the tax rate for the particular tax rate area. The assessed value is generally equal to the purchase price adjusted for changes such as improvements and inflation.

A spreadsheet model is used to compute the property taxes paid under Federal, State, and private ownership. The purpose of the model is to compare in lieu payments under government ownership and property tax revenues accruing under continued private ownership. In order to make that comparison for properties acquired by the State or Federal government, property taxes are calculated as if the land had remained in private ownership.

## **Model Output**

The projections of County property tax or in lieu revenues are presented in several forms. Revenues from Federal in lieu payments are compared with property tax revenues from hypothetical continued private ownership of the Federally held properties. Revenues from State in lieu payments, similarly, are compared to the property tax revenues that would accrue to the County under continued private ownership. Comparative payments are presented for ten, twenty, and thirty years into the future. The present value of the future revenues is also calculated for each ownership category to provide a consistent basis for long term comparisons. Where the value of critical variables cannot be reliably determined from available data, a sensitivity analysis is performed by making separate runs for two or more values, covering the range of probable values.

## **Study Results**

The results indicate that Glenn County receives somewhat more in combined State and Federal in lieu taxes than it would have under continued private ownership. In 1999, for the base case projection, the County General Fund receives an additional \$41,704. That surplus gradually declines to \$19,341 in ten years, \$11,594 in twenty years, and becomes a deficit of \$23,077 in thirty years. The net present value to the County General Fund is positive and equal to \$267,393.

## **Conclusions**

Federal and State land acquisitions in the Sacramento River floodplain have no significant impact on Glenn County General Fund Revenues. This result holds over a wide range of assumptions. The County actually experiences a slight increase in revenues in the years immediately following government acquisition, but net revenues eventually turn negative. The net present value is positive for all cases using the lower property valuation and a negative \$13,105 for the base case assumptions using the higher valuation.

It is not possible to conclude that there will be a zero or positive impact on Glenn County General Fund Revenues from future Federal and State land acquisitions. That is because there is a considerable difference in the revenue impacts resulting from land purchases by the State of California and the Federal government. If there is a shift towards Federal and away from State acquisition, then some adverse revenue impacts on the County can be expected.

## **Introduction**

The purpose of this study is to examine the impacts on local property tax revenues of Federal and State land acquisitions along the Sacramento River. Land is being purchased from private owners for various purposes including habitat preservation and restoration. Local government officials have expressed concerns that converting privately held lands to government ownership will erode the tax base.

Between 1990 and 1996, the Federal government purchased 17 parcels along the Sacramento River in Glenn County. The total purchase price for the 1309 acres in the parcels was \$3,788,092. The State of California acquired 54 parcels in the same area of Glenn County between 1986 and 1994. The State paid \$12,476,300 for the 5621 acres in the acquired parcels.

## **Scope of the Study**

Loss of property tax revenues is but one of the economic issues concerning local officials. As land is removed from agricultural production for habitat restoration or other purposes not resulting in marketable output, the consequences may include reduced local income (GDP), employment, and other sources of local government revenue. Although these additional economic impacts are of concern to local decision makers, they are beyond the scope of this study. The study is limited to examining the impacts of government land acquisition on property tax and special district revenues.

While this study does not examine all potential costs to local economies, it includes none of the potential benefits associated with the programs driving the government land acquisition process. Possible benefits include: reduced flood damage to lands remaining in private ownership, increased ground water recharge, reduced runoff of agricultural chemicals into the Sacramento River, and enhanced wildlife habitat. Some of these may provide direct benefits to the local economy. For example, if habitat improvements lead to an increase in fish populations and thus an influx of anglers, the additional local spending could boost local economic activity and sources of local government revenue, particularly sales taxes.

It is not within the scope of this study to estimate the magnitude of benefits. In fact, the results in no way presume that measurable benefits exist. Any costs to the local economy beyond direct impacts on property tax revenues are also outside the purview of this study. Therefore, it is important that the reader not assume that the study results are indicative of the costs and benefits of habitat restoration, environmental preservation, or any other program goal.

The study is limited to land acquisitions within Glenn County, California. The decision to focus on a single county was based on funding limitations, while the particular choice of Glenn County was due to a combination of local interest and a willingness of local officials to assist in data collection and other aspects of the study. However, the results should be applicable to other counties along the Sacramento River.

## **Methodology**

### **♦ Property valuation**

The target area for the study is land adjacent to the Sacramento River in Glenn County. Land acquisitions included in the study are those properties subject to potential flooding from the River. Therefore, parcels include only those from assessor map books 13, 15, 16, 19, 23, 32, and 37. The sample of properties acquired by the State and Federal governments is further limited to those purchased between 1980 and 1998. This additional restriction eliminates very few properties from consideration (less than 10% of the acquired properties) and was necessary due to the difficulty of determining pre-sale values.

The values for acquired properties were determined prior to sale to the respective Federal or State agency. In cases where the Nature Conservancy purchased property from a private owner and then sold it to a government entity within a year, the assessed value prior to the initial sale was used. Each parcel value and the base year for appraisal were found in the Assessor's Master Lists. In the case where a parcel was split prior to sale, but the entire parcel was sold to the State or Federal government, the value of land and improvements was allocated to the portions of the original parcel based on relative acreage. Where a portion of the original parcel remained in private ownership, the appraisal value of the privately held parcel was subtracted from the value of the entire parcel to determine the value of the part purchased by the government agency.

The prices paid by the State and Federal governments were determined from two separate sources. For State property acquisitions, the purchase price was provided by the Glenn County Assessor's Office from a list of all property purchases by the Wildlife Conservation Board. For properties purchased by the Federal government, the prices paid were found on the sale documents from the County Recorder's Office. In the one case where the Nature Conservancy purchased a property and did not resell it to a State or Federal entity, the purchase price was obtained from the Assessor's Master Lists, the source of appraised values for all privately held parcels.

### ◆ Property Tax Payments

The purpose of the study is to compare Federal and State in lieu payments to the property taxes that would have been paid had the acquired lands remained in private ownership. In the case of the State, in lieu payments are calculated as the product of the assessed value prior to the sale of the property and the applicable tax rate for the particular tax rate area. The in lieu taxes paid by the State on any parcel remain constant over time. This is because the State does not re-appraise properties and does not change the tax rate even if the rate changes for the appropriate tax rate area.

The Federal government computes in lieu taxes owed to counties at three-quarters of a percent of the appraised value. Unlike the State, the Federal government sets the initial appraised value equal to the purchase price and re-appraises its holdings every five years. Therefore, in any year, the Federal in lieu owed the County is three-quarters of a percent of the current appraised value. However, the actual amount the County receives depends on the Federal budgetary process and has been as little as sixty-five percent of the amount owed.

For a privately held parcel, property taxes paid are the product of the assessed value and the tax rate for the particular tax rate area. The assessed value is generally equal to the purchase price adjusted for changes such as improvements and inflation. The annual inflation adjustment is equal to the increase in the California CPI up to two percent. The inflation adjustment is from the base year appraisal (1975 is the base year for all properties purchased prior to that year); that is, the value in the year the current owner purchased the property.

### ◆ The Model

A spreadsheet model is used to compute the property taxes paid under Federal, State, and private ownership. The purpose of the model is to compare in lieu payments under government ownership and property tax revenues accruing under continued private ownership. In order to make that comparison for properties acquired by the State or Federal government, property taxes are calculated as if the land had remained in private ownership. The assessed value used to compute hypothetical property taxes paid is the base year value adjusted by two percent per year for inflation. Re-appraisal is assumed to occur at resale and model runs are made for resale frequencies of ten, twenty, and forty years. The real rate of increase in land values is equal to the average annual increase in California farmland values for the 1970-1998 period less the average annual inflation rate (See Appendix B). The rate of increase in land prices, and thus appraised value for properties transferred between private parties, is equal to the sum of the real rate of increase in farmland prices and the assumed future rate of inflation.

For properties acquired by the Federal government, the projected in lieu taxes are computed based on the purchase price, the tax rate, the percentage of in lieu actually paid, and the values determined by periodic re-appraisal. In lieu taxes paid for the five year period following purchase equal the price paid times three-quarters of a percent times the percent of in lieu actually paid. Since the latter has generally varied between sixty and one hundred percent, separate projections are done for assumed values of 60, 80, and 100 percent. Five years following the initial public purchase, the appraised value of the land is increased to reflect its then current market value. The adjustment in market value is accomplished using the adjustment factor described above for privately held lands. The re-appraisal process continues in the same manner at five year intervals and Federal in lieu payments to Glenn County are computed according to the formula described at the beginning of this paragraph.

In lieu taxes paid by the State are constant over time and are the product of the tax rate and the pre-sale appraised value of the property. Therefore, for State land acquisitions, no adjustments for re-appraisal or changes in tax rate areas are necessary and first year and nth year payments are identical.

Some of the public land acquisitions include property with improvements. The improvements, which under private ownership are taxed at the same rate as are land values, may include structures, orchard trees, etc.. Since agricultural production is not the intended purpose of public land acquisitions, it is reasonable to assume that these improvements will be allowed to depreciate over time. This may not be the case for all improvements. However, where habitat enhancement is the goal, orchard trees, irrigation wells, and structures are largely incompatible with restored habitat. The decrease in the value of improvements has no effect on State in lieu paid as the value is frozen at the initial purchase price. But, in the case of Federal holdings, the amount of the periodic re-appraisal will be affected by the depreciation. For purposes of this study, we will separately consider straight-line depreciation over a ten year and a twenty year period for all improvements on Federally held property. The amount of depreciation is deducted from the escalation in the value of unimproved land to determine the increase in the base for in lieu payments at the point of re-appraisal. In the case of land remaining in private ownership (no transfer to Federal ownership), it is assumed that the improvements are maintained and rise in value at the same rate as farmland.

For a few parcels, the County receives additional revenue in the form of possessory interest taxes. These are taxes paid when publicly acquired land is leased back to private individuals for farming. This revenue source is based on the value of output and thus is assumed to decline with depreciation and end when the improvements are fully depreciated.

#### ◆ Allocation of Property Tax Revenues

While the total amount of property tax or in lieu revenues are important to the County, whether they are paid into the County General Fund or the State School Fund, is also an important consideration. In the case of privately held lands, the tax rate in excess of one percent of assessed value is paid to special districts. Of the remaining one percent of assessed value, eighty percent goes to the State School Fund and twenty percent goes to the County General Fund. For State in lieu paid to the County, one hundred percent goes to the general fund. Federal in lieu, by contrast, is allocated in the same manner as property taxes paid on privately held parcels. As is the case with property taxes, twenty percent of possessory interest revenues accrue to the County General Fund.

As a result of the differences in allocating in lieu payments to the various County funds, the model examines the impact on each of the funds separately. Federal, State, and private ownership are examined in terms of the impact on the general fund and special district revenues.

#### **Model Output**

The projections of County property tax or in lieu revenues are presented in several forms. Revenues from Federal in lieu payments are compared with property tax revenues from hypothetical continued private ownership of the Federally held properties. Revenues from State in lieu payments, similarly, are compared to the property tax revenues that would accrue to the County under continued private ownership. The comparisons are made separately for the general fund, schools, and special districts. Comparative payments to the three funds are presented for ten, twenty, and thirty years into the future. The present value of the future revenues is also calculated for each ownership category to provide a consistent basis for long term comparisons.

Where the value of critical variables cannot be reliably determined from available data, a sensitivity analysis is performed by making separate runs for two or more values covering the range of probable values, and then comparing the results. Frequency of sale for privately held properties, the rate of depreciation for improvements on Federally held lands, the general rate of inflation, the ratio of Federal in lieu payments made to the amount due, and the discount rate are the key variables for which sensitivity analyses are performed.

## **Public Participation**

### **Technical Advisory Committee:**

- John Benoit - Director of Resource Planning and Development for Glenn County
- Denny Bungarz - Member of the Glenn County Board of Supervisors, District 4 and Chair of the SB 1086 Committee
- Burt Bundy - Coordinator of the SB1086 Committee
- Ramon Vega - U.S. Fish and Wildlife Service
- Vincent Minto - Glenn County Assessor
- Sam Larson - The Nature Conservancy
- John Merz - Sacramento River Preservation Trust
- John Carlon - Sacramento River Partners

The Technical Advisory Committee participated in the design and proposal writing phases of the study. During the time that work was accomplished, we had two meetings with the Committee. At the April, 1998 meeting, the members present offered suggestions as to what elements they would like to see included in the study. A rough draft of the proposal was mailed to the members for comment. A second meeting was held in June, 1998 to discuss the members' response to the rough draft and to consider the appropriate structure of an expanded economic impact analysis. A revised proposal was e-mailed to the Committee members on June 22, 1998. The comments received were incorporated into the final proposal.

During the data collection phase, Vince Minto, the Glenn County Assessor, and his staff provided assistance in determining the values of various privately held parcels, the methods for computing State and Federal in-lieu payments to the County, and invaluable assistance in other key areas. In January and February of 1999, we made eight separate trips to the County offices in Willows for data collection and consultation with County staff members.

A rough draft of the study was completed in March, 1999 and sent to each of the members of the Advisory Committee for comment. That was followed by a meeting to discuss changes and additions suggested by Committee members. Where appropriate, those comments were incorporated into the final version of the report.

## **Study Results**

The results indicate that Glenn County receives somewhat more in combined State and Federal in lieu taxes than it would have under continued private ownership. In 1999, for the base case projection, the County General Fund receives an additional \$41,704. That surplus gradually declines to \$19,341 in ten years, \$11,594 in twenty years, and becomes a deficit of \$23,077 in thirty years. The net present value to the County General Fund is positive and equal to \$267,393.



There are significant differences in the contribution to the County General Fund of State and Federal in lieu taxes. For properties acquired by the State of California, the in lieu taxes for 1999 exceed what would have been paid under private ownership by \$41,449. That net contribution declines to \$25,099 after 10 years, \$18,602 after 20 years, and becomes a deficit of \$8,595 in the thirtieth year. The net present value to the County General Fund is \$333,302.

However, the contribution to the County General Fund of Federal in lieu taxes is somewhat less than what would have accrued under continued private ownership. For 1999, the County gains \$255, but in the tenth year it loses \$5,758. The losses increase to \$7,008 in the twentieth year and \$14,482 in the thirtieth year. The net present value to the County General Fund for the Federally acquired properties is a negative \$65,908. Appendix C contains projected annual revenue impacts through the year 2030 for State and Federal property acquisitions.

#### ◆ Description of the Base Case

The projections for the base case are founded on a series of assumptions that we believe are the most reasonable. A discussion of the assumptions and the rationale for the choice of those values is contained in Appendix B. The values for the critical variables used in the base case projections are as follows:

1. A discount rate of eight percent. See Appendix B for a discussion of the reason this value was used.
2. The Federal government pays 80 percent of the in lieu taxes due the County.
3. The improvements on Federally acquired properties are depreciated over a 20 year period.
4. Private property is transferred (in a manner requiring re-appraisal) every 20 years. It is assumed that the initial year for the analysis, 1998, is the midpoint of the twenty year cycle.
5. Farmland prices will increase at an annual real rate (in excess of the rate of inflation) of .95 percent (the average annual rate of increase for U.S. farmland and buildings for the 1970-1998 period). See Appendix B for a more detailed discussion of the data sources and calculations.
6. The value of the properties acquired by the State and Federal governments is determined by escalating the 1975 base value at the actual rate of increase in the value of California farmland. As is discussed in greater detail below, the property values obtained with this method are considerably lower than the actual prices paid by the government agencies.
7. The annual rate of inflation is three percent.

### ◆ Sensitivity Analysis

We performed a sensitivity analysis for each of the assumptions 1- 6. The purpose was to determine the impact on the results of different values for the key variables. The results of the sensitivity analysis are contained in Appendix C and summarized below.

1. Using a discount rate of 6 percent reduces the net present value of in lieu tax payments to the County General Fund to \$60,970. If a 10 percent discount rate is used, the net present value increases to \$285,386. These results differ from the base case net present value of \$267,393, significantly for the lower discount rate, but only slightly for the higher rate.
2. Assuming the Federal government pays 100 percent of the in lieu taxes due, it increases the new present value of the contribution to the County General Fund to \$286,647. If only 60 percent is paid, the net present value declines to \$248,139.
3. If the improvements on Federally acquired properties are depreciated over a ten year period, the net present value to the County General Fund is reduced to \$259,750.
4. Assuming that property is transferred between private owners every ten years, on average, decreases the net present value to the County General Fund to \$199,431. If the interval is assumed to be 40 years, the net present value is increased to \$352,118.
5. If the real rate of increase in farmland values is equal to zero, the net present value to the County General Fund increases to \$337,608. If the rate of increase is assumed to be 1.57 percent annually (the average annual rate of increase in the value of U.S. farmland for the 1954-95 period) the net present value declines to \$202,150.
6. As noted above, the value for the parcels used in the study was determined using the actual rate of increase in the value of California farmland from a 1975 base value. This method yields a 1998 value for properties acquired by the State of California of \$9,360,804 and for properties acquired by the Federal government of \$3,585,837. However, if we take the actual purchase price for the acquired parcels and escalate from the purchase date to 1998 at the actual rate of increase for California farmland values, we get a much higher value. For properties acquired by the State, the value is \$17,597,278 and for those acquired by the Federal government, the value is \$4,250,290. If these higher values are used in combination with the other base case assumptions, the net present value of the contribution to the County General Fund declines from \$267,393 to a negative \$13,105.

There are two possible explanations of this discrepancy. First, it is possible that the acquired parcels possess some unique characteristics that cause their value to increase at a rate in excess of the average for all California farmland. If this is the case, then the private market would eventually value the parcels in the same manner as the purchasing agencies and the appropriate net present value for the base case is the lower negative \$13,105 figure. Second, it is possible that the State and Federal governments paid more than market value for the properties. If this is the proper explanation for the discrepancy, then we should use \$267,393 as the net present value to the County General Fund. Since we believe that the latter explanation is more reasonable, we chose to use the lower land values for the base case.

## **Conclusions**

Federal and State land acquisitions in the Sacramento River floodplain have no significant impact on Glenn County General Fund Revenues. This result holds over a wide range of assumptions. The County actually experiences a slight increase in revenues in the years immediately following government acquisition, but net revenues eventually turn negative. The net present value is positive for all cases using the lower property valuation and a small negative number for the base case assumptions using the higher valuation. The same conclusions hold for the special district revenues, and since the absolute amount of special district revenues involved is so small, the net impact is trivial.

It is not possible to conclude that there will be a zero or positive impact on Glenn County General Fund Revenues from future Federal and State land acquisitions. That is because there is a considerable difference in the revenue impacts resulting from land purchases by the State of California and the Federal government. What can be said is that, if in the future, acquisitions are made by the State and federal governments in roughly the same proportion as they have been, impacts on the County General Fund are not a concern. However, if there is a shift towards Federal and away from State acquisition, then some adverse revenue impacts on the County can be expected.

## **References**

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10. U.S. Department of Interior, U.S Fish and Wildlife Service. Refuge Revenue Sharing Act: Fee Acquisition.
10. U.S. President. Economic Report of the President. Washington D.C.: Government Printing office. 1999.
12. Wall Street Journal. Treasury Bonds, Notes and Bills. February 25, 1999.

## **Appendix B**

### **Economic Assumptions**

#### **♦ Real Rate of Increase in Farmland Values**

The real rate of increase in farmland values was determined from the rates of increase in land values and the general price level. For the 1970 to 1998 period, the average value of land and buildings in U.S. agriculture increased at a 6.24 percent annual rate (Economic Research Service, USDA). Over the same time interval, the Consumer Price Index (CPI) rose at 5.24 percent annual rate (Economic Report of the President, 1999). These relative changes imply a real rate of increase in farmland prices of .95 percent annually.

For the 1954 to 1995 time period, the value of U.S. agricultural land increased at a 5.96 percent annual rate (ERS, USDA). Over the same time interval, the CPI rose at a 4.32 percent annual rate, thus yielding a 1.57 percent average annual increase in the real value of farmland (Economic Report of the President, 1999).

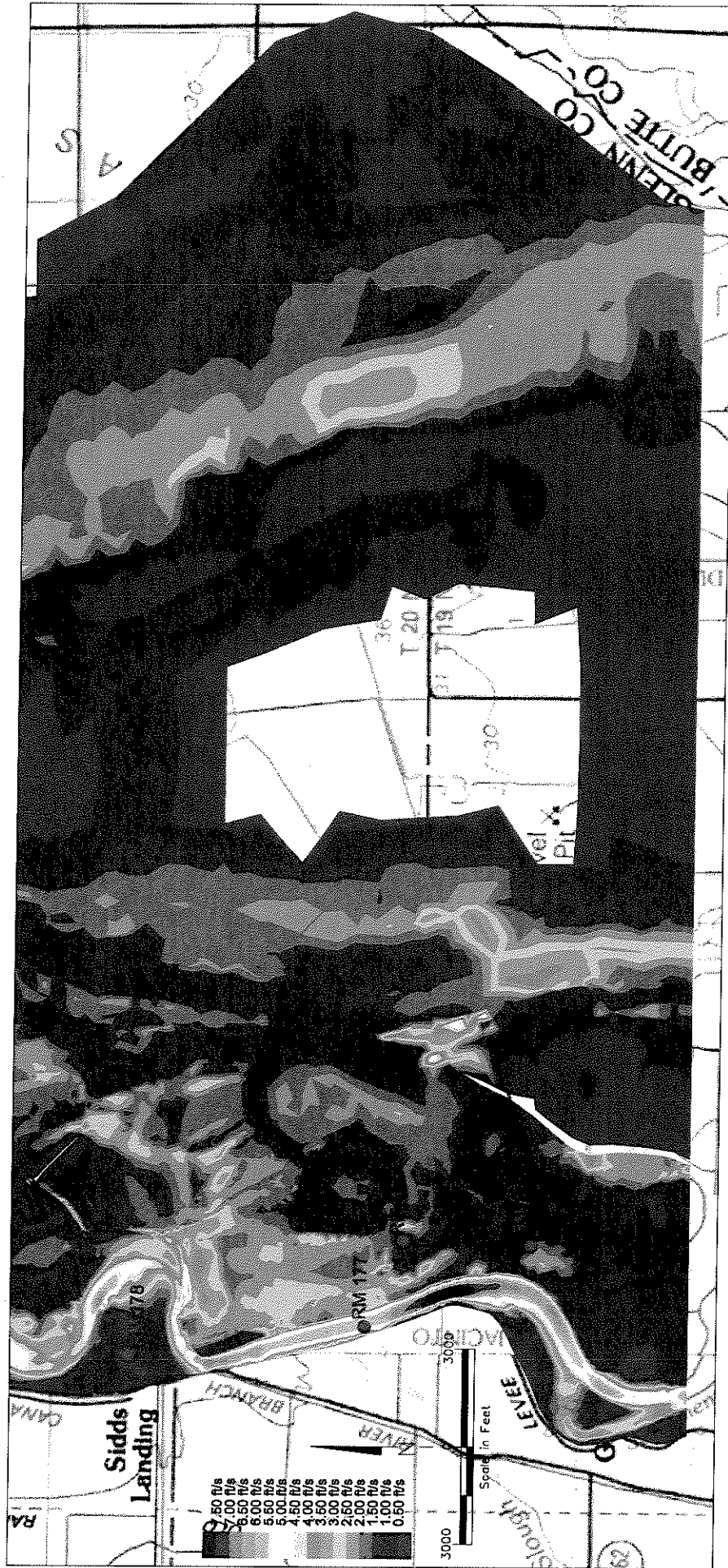
#### **♦ Discount Rate**

The discount rate of 8 percent used in the base case projections can be justified in one of two ways. First, it equals the sum of the real interest rate, the inflation rate, and the real rate of increase in farmland value. The real interest rate is the rate on 30 year inflation indexed treasury bonds which is currently 3.8 percent (Wall Street Journal). The inflation rate has averaged 3.1 percent over the 1929 through 1998 period (Economic Report of the President). Most forecasts indicate that inflation should remain at or below three percent for the foreseeable future. As explained in the previous section, the real rate of increase in farmland values is in the range of one to 1.5 percent. Summing the three determinants of the discount rate yields a value of approximately 8 percent.

The second method for determining the discount rate is to use the assessor's capitalization rate. That rate is equal to the sum of the interest factor, the property tax rate, a risk component, and an amortization of perennials factor (Assessor Handbook, Sept., 1997, pp. II-23, 24, California State Board of Equalization). For the purposes of this study, the last two factors are zero. The interest rate set by the State Board of Equalization was seven percent for 1993-1997 and the property tax rate is equal to one percent, yielding a discount rate of eight percent.

Exhibit 7

VELOCITY PROFILE



Clearing House # 2005118379

## NOTICE OF EXEMPTION

TO: [X] Office of Planning and Research  
1400 Tenth Street, Room 222  
Sacramento, CA 95814

FROM: Department of Fish and Game  
WILDLIFE CONSERVATION BOARD  
Attn: Scott Clemons  
1807 13<sup>th</sup> Street, Suite 103  
Sacramento, CA 95814-7117

| | County Clerk  
County of

Project Title-Sacramento River Riparian Restoration, Del Rio Site Phase II

Project Location-Specific One mile east of the Sacramento River, and approximately four miles north of Butte City

Project Location-City

Project Location-County  
Glenn

Description of Nature, Purpose, and Beneficiaries of Project

Habitat restoration to benefit resident and migratory birds, mammals, fish and other riparian dependent animals.

Name of Public Agency Approving Project

Department of Fish and Game, Wildlife Conservation Board

Name of Person or Agency Carrying Out Project

Al Wright, Executive Director, Wildlife Conservation Board

Exempt Status: (Check One)

☐ Ministerial (Sec. 15073)

☐ Declared Emergency (Sec. 15071 (a))

☐ Emergency Project (Sec. 15071 (b) and (c))

☒ Categorical Exemption. State type and section number: 15304, Class 4

Reasons why project is exempt:

Minor alteration of land.

Contact Person

Scott Clemons

Area Code Telephone

(916)

445-1072

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project?  
Yes ☒ No ☐ By this notice.

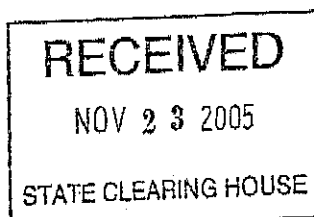
Date Received for Filing:

/s/ AL WRIGHT

Signature: Al Wright

Title: Executive Director  
Wildlife Conservation Board

cc: WCB binder  
☒ WCB file  
Chron



Clearing House # 2005118379